

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 31 2003

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

1 Faye L. Tomlinson
2 Robert J. Carlson
3 Gregory F. Wesner
4 CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
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6 Seattle, Washington 98101-2347
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9

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON AT SPOKANE

12 Prod, Inc., an Idaho corporation,
13 Plaintiff,

14 v.

15 Soil Spray Aid, Inc., a Washington corporation,
16 and

17 William S. Johnson, an individual residing in
18 Washington,

19 Defendants.

No. _____

COMPLAINT

CS-03-0026-AAM

20 I. INTRODUCTION

21 Plaintiff, Prod, Inc. ("Prod") hereby respectfully files this Complaint for violation of
22 the federal Lanham Act (15 U.S.C. § 1125, *et seq.*), and related state causes of action against
23 Defendants Soil Spray Aid, Inc., and William S. Johnson (collectively "Defendants"), and
24 alleges the following:
25
26

COMPLAINT - 1
PRODI2383 COMPLAINT REV. 1.DOC
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ORIGINAL

II. THE PARTIES

1
2 1. Plaintiff Prod, Inc. is an Idaho corporation with offices at 1605 Lemhi Drive,
3 Moscow, Idaho 83843. Prod, Inc. provides agricultural products, including its flagship
4 product, "Seed Prod+" which is widely used as a seed application to promote germination.
5 Prod, Inc. has been incorporated since October 1, 1990, is of good name, credit, and
6 reputation and enjoys the esteem and good opinion of the business community, professional
7 associations, and others who know it.

8
9 2. Upon information and belief, Defendant Soil Spray Aid, Inc. ("SSA") is a
10 Washington corporation with offices at 2196 Stoneridge Road, N.E., Moses Lake,
11 Washington 98837 (Grant County). SSA is a direct competitor of Prod, Inc. in the
12 agricultural products business.

13 3. Upon information and belief, Defendant William S. Johnson ("William
14 Johnson") is a resident of Grant County, Washington, and may be served at the offices of SSA,
15 located where indicated above.
16

II. JURISDICTION AND VENUE

17
18 4. This is an action arising under the Trademark Act of 1946 (15 U.S.C. § 1051 *et*
19 *seq.*), the laws of the State of Washington, and the common law. This Court has jurisdiction
20 pursuant to 15 U.S.C. § 1121 (actions arising under the Lanham Act), 28 U.S.C. § 1338 (acts of
21 Congress relating to trademarks and unfair competition), and 28 U.S.C. § 1367 (supplemental
22 jurisdiction over related state law claims).
23

24 5. In addition, this court has jurisdiction pursuant to 28 U.S.C. § 1332 (diversity of
25 citizenship), as the amount in controversy exceeds the sum or value of \$75,000.
26

1 6. Venue is proper in this judicial district under 28 U.S.C. § 1391.

2 **III. FACTUAL HISTORY OF THE *SEED PROD+* MARK AT ISSUE**

3 7. Prod, Inc. was formed on October 1, 1990, as the successor corporation to
4 Johnson 3, Inc. (J3). On that date Defendant William Johnson was made Vice-President to Prod,
5 Inc., and assumed the privileges and duties associated with his status as a corporate officer.

6 8. As of the date Prod, Inc. was formed, its three principals, the brothers Robert L.
7 Johnson, Ronald M. Johnson, and Defendant William Johnson had each of them been active in
8 their own enterprises and in combination with one-another in the agricultural products industry.
9 One reason the three decided to incorporate as Prod, Inc., was to coordinate their marketing
10 efforts to build market share.
11

12 9. After the formation of Prod, Inc., the company began to consolidate its marks so
13 that many of them used the term "Prod" as the dominant portion of the mark, *i.e.*, SEED PROD,
14 CROP PROD, and ROW PROD, to name a few.
15

16 10. Prod, Inc. began using the mark SEED PROD PLUS for agricultural products in
17 approximately 1997. In 1998, Prod, Inc. shortened and refined the mark into its present form as
18 SEED PROD+. SEED PROD PLUS and SEED PROD+ both enjoy widespread recognition in
19 the states of Washington, Idaho, Oregon, Montana, North Dakota, Nevada and elsewhere.
20

21 11. On or about October 6, 2000, Prod, Inc. entered into an agreement with the
22 agribusiness giant Wilbur-Ellis wherein Wilbur-Ellis would become the exclusive distributor for
23 Prod, Inc.'s SEED PROD+. That agreement contains a "best efforts" sales clause. This
24 potentially very lucrative agreement was entered into during Defendant William Johnson's tenure
25 as Vice-President of Prod, Inc.
26

1 12. In February 2002, Defendant William Johnson left Prod, Inc. to pursue his own
2 ventures. It has very recently come to light that Defendants SSA and William Johnson have
3 purported to register the SEED PROD+ trademark in various states, and to claim Defendant
4 SSA's exclusive right to use the mark. These and other acts by the Defendants give rise to this
5 dispute.

6
7 **IV. DEFENDANT'S FALSE, MISLEADING AND DEFAMATORY ACTS**

8 13. Within the past 45 days, Prod, Inc. has learned that Defendants SSA and William
9 Johnson have purported to register the mark SEED PROD+ in the States of Washington, Idaho,
10 and Nevada, listing "Soil Spray Aid, Inc." as the registrant in each such purported state
11 registration. There is no record of a Washington State registration for SEED PROD+. *See*,
12 Thompson & Thompson search report results, comprising part of Exhibit "A", attached hereto.
13 The Nevada and Idaho purported registrations claim exclusive first use dates in 1992, during
14 which time Defendant William Johnson was Vice-President of Prod, Inc. *Id.*

15
16 14. It is now apparent that Defendant William Johnson engaged in other acts while
17 serving as a corporate officer of Prod, Inc. that were inconsistent with his duty of care as a
18 fiduciary. He personally profited from business opportunities that he unlawfully diverted from
19 Prod, Inc.

20
21 15. What is more, on December 9, 2002, Defendants' agent, the Dano Law Firm,
22 drafted a letter on behalf of Defendant SSA and published it to Wilbur-Ellis and other Prod, Inc.
23 customers. This letter intentionally and willfully misstates facts and law. The letter's purpose,
24 apparent from the text reproduced below, was to unlawfully defame Prod, Inc., and to divert
25 business from Prod, Inc. to the Defendant SSA. The December 9 letter contains the following
26

1 defamatory, injurious, and demonstrably false claims:

2 We are the attorneys for Soil Spray Aid, Inc. ("Soil Spray"), whose
3 principal offices are located in Moses Lake, Washington.

4 Soil Spray is the manufacturer of Seed Prod+, a specialized seed treatment
5 product, and are the owners of the trademark "Seed Prod+", which is
6 trademarked in the States of Washington, Idaho, and Nevada.

7 It is unlawful, without the consent of Soil Spray, for any person or entity to
8 manufacture, use, display, or sell any seed treatment product either
9 advertised as Seed Prod+ or bearing that name on its container or
10 packaging or a colorable imitation thereof.

11 If you are engaged in any such practices, demand is hereby made upon you
12 to cease doing so immediately.

13 Very truly yours,

14 /S

15 DANO LAW FIRM, P.S.

16 December 9, 2002, letter from Brian J. Dano, Esq., and the Dano Law Firm, to Wilbur-Ellis, *et*
17 *al.*, copying Defendant Soil Spray Aid, Inc. Attached hereto as Exhibit "B".

18 16. On information and belief, the December 9, 2002, letter was sent under the
19 auspices of a law firm licensed to deliver legal services in Washington State, and was sent as part
20 of a conspiracy, joined by all Defendants and formed for the purpose of unlawfully depriving
21 Prod, Inc. of valuable business opportunities.

22 17. On information and belief, the potential business relationship between Prod, Inc.,
23 and Wilbur-Ellis, alone, is worth approximately \$700,000 per year.

24 18. On information and belief, Defendants knew as of the date of the December 9,
25 2002, letter from the Dano Law Firm to Wilbur-Ellis, that Prod, Inc. was the exclusive supplier
26

1 of SEED PROD+ to Wilbur-Ellis. Thus, Defendants' December 9 letter was deliberately
2 intended to disparage and defame Prod, Inc.

3 19. On information and belief, since the date of the December 9, 2002, letter,
4 Defendants have had further contact with Wilbur-Ellis and other Prod, Inc. customers, have
5 claimed exclusive right to the mark SEED PROD+ and/or the mark SEED PROD PLUS, and
6 otherwise attempted to undermine Prod, Inc.'s business relationships.

7 20. On December 17, 2002, counsel for Prod, Inc. sent to the Dano Law Firm, by
8 facsimile and First Class Mail notice that Defendants' December 9, 2002, letter to Wilbur-Ellis
9 and other Prod, Inc. customers misstated obvious facts and law. *See*, attached Exhibit "A". The
10 December 17 letter requested that Defendants make a retraction of the statements in their
11 December 9 letter, and requested a response by December 22, 2002. To date, neither Plaintiff
12 nor its counsel have received any communication whatsoever from any Defendant.
13

14 21. There being no other recourse to correct this harm, Plaintiff herewith initiates this
15 action.
16

17 **COUNT I: FEDERAL LANHAM ACT VIOLATION**

18 22. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
19 21 as if fully set forth herein.
20

21 23. Defendants' activities described herein constitute a false or misleading
22 representation of fact, false description and/or misleading representation stating that
23 Defendant SSA owns exclusive trademark rights that all Defendants know, or should know,
24 that SSA does not rightfully possess, in violation of 15 U.S.C. § 1125(a), Section 43(a) of the
25 Lanham Act.
26

COUNT II: DEFAMATION

1
2 24. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
3 23 as if fully set forth herein.

4 25. Defendants knew the good name, credit, and reputation of Plaintiff.
5 Nevertheless, Defendants composed and sent a false and defamatory letter to Wilbur-Ellis and
6 other Prod, Inc. customers. In that letter, Defendants intentionally and maliciously made
7 false, scandalous, and defamatory statements intending to injure Plaintiff and to bring Plaintiff
8 into public scandal and disgrace. These false and defamatory statements impute unethical
9 business practices (use of trademarks without right), and were intentionally designed to divert
10 business opportunities from Plaintiff to Defendants acting in concert.

12 26. Contrary to the allegations within Defendants' December 9, 2002, letter, none
13 of the Defendants have exclusive trademark rights in the SEED PROD+ mark.

14 27. Defendants' statements are libelous *per se* because they make charges in
15 reference to Plaintiff's trade, business, office, and profession.

17 28. Defendants made the foregoing statements maliciously and with knowledge
18 that they were false. In the alternative, Defendants made the statements in reckless disregard
19 for the truth and with serious doubt as to their accuracy. Defendants' conduct was willful,
20 intentional, malicious, wanton, and reckless in that it defamed Plaintiff by the publication of
21 untrue accusations that caused great harm to Plaintiff's existing and potential business
22 relationships.

24 29. As a direct and proximate result of Defendants' defamatory statements,
25 Defendants injured Plaintiff's good name, credit, and reputation and brought Plaintiff into
26 public scandal and disgrace. Defendants' statements have resulted in further injury to Plaintiff

1 in that Plaintiff has sustained damages to its business reputation and goodwill including, but
2 not limited to loss of reputation, loss of business, and loss of business opportunity, for which
3 it is entitled to recover. Defendants' false statements were all the more injurious to Plaintiff
4 because they were deliberately directed to Plaintiff's most valuable customers.

5 30. Plaintiff served a notice in writing on Defendant, specifying the article and the
6 statements therein that are false and defamatory and requesting a retraction. A copy of the
7 letter is referenced above and attached hereto as Exhibit "A." As of the filing of this action,
8 no such retraction has been made.
9

10 **COUNT III: TORTIOUS INTERFERENCE WITH**
11 **BUSINESS EXPECTANCY**

12 31. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
13 30 as if fully set forth herein.

14 32. Plaintiff had a legitimate business expectation to participate in and to develop
15 goodwill and business opportunities through its existing relationship with Wilbur-Ellis and
16 other customers, and enjoyed widespread recognition as a source for the goods associated
17 with the SEED PROD+ mark.
18

19 33. Defendants had knowledge of Plaintiff's expectancy, and their conduct, as
20 described in the preceding paragraphs of this Complaint, was intentional, willful, motivated
21 by an improper objective to damage Plaintiff's business reputation and good name within the
22 community, and accomplished by improper means – the circulation of a defamatory letter to
23 Plaintiff's existing customers, and potential customers.
24

25 34. As a direct result of Defendants' intentional interference, Wilbur-Ellis, and
26 other customers, have expressed concern that the SEED PROD+-marked goods supplied to

1 them by Plaintiff are not genuine.

2 35. As a direct and proximate result of Defendants' intentional interference,
3 Defendants injured Plaintiff's good name, credit, and reputation and brought Plaintiff into
4 public scandal and disgrace. Defendants' interference has resulted in further injury to Plaintiff
5 in that Plaintiff has sustained damages to its business reputation and goodwill including, but
6 not limited to loss of reputation, loss of business, and loss of business opportunity for which it
7 is entitled to recover.
8

9 **COUNT IV: CONSPIRACY**

10 36. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
11 35 as if fully set forth herein.

12 37. Defendant's actions were jointly orchestrated in a conspiracy to deprive
13 Plaintiff of valuable business opportunities, and to divert such business opportunity from
14 Plaintiff to Defendants, or some of them.
15

16 38. Defendant's actions rise to the level of common law conspiracy, and
17 Defendants should be held jointly and severally liable for the harm to Plaintiff their actions
18 have caused.

19 **COUNT V: BREACH OF CORPORATE FIDUCIARY DUTY – VIOLATION**
20 **OF THE CORPORATE OPPORTUNITY DOCTRINE**

21 39. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
22 38 as if fully set forth herein.
23

24 40. Defendant William Johnson was a Vice-President and a corporate officer of
25 Prod, Inc. from October 1, 1990 until February 2002. During his tenure as a corporate officer,
26 Defendant William Johnson will be held to the standard of a fiduciary with respect to Prod,

1 Inc.

2 41. Defendant William Johnson has breached his duty as a fiduciary to Prod, Inc.,
3 and has violated the Corporate Opportunity Doctrine by claiming to have acquired trademark
4 rights in marks that were developed and used by Prod, Inc., during Defendant William
5 Johnson's tenure with Prod, Inc. Prod, Inc. has been harmed thereby.

6 42. During his tenure as a corporate officer of Prod, Inc., Defendant William
7 Johnson also diverted valuable business opportunities from Prod, Inc. to himself or to entities
8 from which he profited. Prod, Inc. was harmed thereby.
9

10 **COUNT VI: VIOLATION OF THE WASHINGTON CONSUMER**

11 **PROTECTION ACT**

12 43. Plaintiff adopts and realleges the allegations set forth in Paragraphs 1 through
13 42 as if fully set forth herein.

14 44. Defendants, or some of them, have engaged in unfair or deceptive practices in
15 the realm of commerce, and caused damage to Plaintiff. The public has been deceived as part
16 of Defendants' actions designed to misrepresent the validity of Plaintiff's right to market
17 SEED PROD+.

18 45. Defendants' activities described herein constitute unfair business practices and
19 unfair competition in violation of the Washington State Consumer Protection Act, R.C.W. §
20 19.86.020.
21

22 **DEMAND FOR JURY TRIAL**

23 Plaintiff hereby requests a trial by jury of all issues so triable.
24

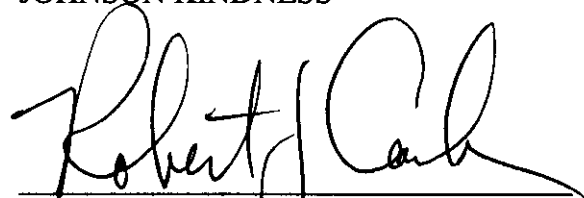
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for the following alternative and cumulative relief:

- (1) For judgment against Defendants on each of the above Counts;
- (2) For orders preliminarily and permanently enjoining Defendants from making further defamatory statements regarding Plaintiff and from tortiously interfering with Plaintiff's business relationships and prospective business relationships;
- (3) That Defendants be ordered to deliver to all recipients of the December 9, 2002, letter attached hereto an apology and acknowledgment that the matters alleged therein were and are false;
- (4) That Plaintiff be awarded compensatory, special, and general damages, plus interest;
- (5) That Plaintiff be awarded costs of court and its attorneys' fees;
- (6) That Defendants be held jointly and severally liable for all damages to Plaintiff, as well as costs and attorneys' fees; and
- (7) That Plaintiff be awarded such other and further relief as this Court deems just and proper.

Dated this 29 day of January, 2003.

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Robert J. Carlson, WSBA No. 18,455
Faye L. Tomlinson, WSBA No. 14,067
Gregory F. Wesner, WSBA No. 30,241
Attorneys for Plaintiff Prod, Inc.

EXHIBIT A

December 17, 2002

VIA FACSIMILE -- ORIGINAL MAILED

Facsimile No. (509) 766-0087

Brian J. Dano, Esq.
100 E. Broadway Ave. / P.O. Box 1159
Moses Lake, Washington 98837

Re: Prod, Inc. v. Soil Spray Aid, Inc.
Mark: "Seed Prod+"
Our Reference: PROD-5

Dear Mr. Dano:

This firm represents Prod, Inc., in intellectual property matters. Your December 9, 2002, correspondence to Prod, Inc., on behalf of your client, Soil Spray Aid, Inc. ("SSA") has been referred to our firm for a response.

I understand that you or your client have published the December 9 letter, or a similar "warning letter," to one or more clients of Prod, Inc. These warning letters misstate obvious facts, fundamental principles of trademark law, and are *per se* defamatory. Accordingly, you are hereby instructed to cease all further distribution of such warning letters. Furthermore, you must, within 5 business days of your receipt of this letter, provide me with a copy of each and every such warning letter sent to any third party. You will be required to send to each of the warning letter recipients correspondence in the form of the attached "retraction letter." Your failure to comply with this request will result in prompt legal action and could expose your client to substantial damages for defamation, tortious interference with contract, and unfair business practices. These causes of action allow for the award of attorneys' fees and treble damages.

Out of professional courtesy, I am going to assume that you have not been made fully aware of the facts of this case. If I am wrong, and you published the warning letters to Prod, Inc.'s clients with full knowledge of the facts, you may be in violation of RPC 4.1 and should prepare yourself accordingly.

Simply put, you are alleging, in error, that SSA has the exclusive right to use the name and mark "Seed Prod+." As the basis for SSA's exclusive claim of right, you assert that the mark is "trademarked in the States of Washington, Idaho, and Nevada." Attached for your consideration please find a trademark search report showing that:

Soil Spray Aid, Inc., purported to register the mark "Seed Prod+" in Nevada on July 2, 2002, claiming a first date of use in Nevada of 1992.

Brian J. Dano, Esq.
December 17, 2002
Page 2

Soil Spray Aid, Inc., purported to register the mark "Seed Prod+" in Idaho on July 8, 2002, claiming a first date of use in Idaho of 1992.

Your client's president, William S. Johnson, was a vice-president of Prod, Inc., from approximately October 1990 until February 2002. As vice-president of Prod, Inc., Mr. Johnson will be held to the standard of a fiduciary with respect to Prod, Inc.'s assets, including its trademark, trade name, and goodwill assets. SSA's Nevada and Idaho trademark registrations, on their face, claim dates of exclusive use that substantially overlap with Mr. Johnson's tenure as vice-president of Prod, Inc. In short, Mr. Johnson's claim regarding SSA's dates of use directly conflicts with Mr. Johnson's duties to Prod, Inc. As I mentioned before, I will assume, out of professional courtesy, that this is news to you.

Prod, Inc., has continually used the name and mark "Seed Prod" in Washington, Idaho, Oregon, Montana, North Dakota, and elsewhere, for at least 10 years. Further, Prod, Inc. has continually used the name and mark "Seed Prod Plus" in these states for approximately 6 years, and the name and mark "Seed Prod+" in these same states for approximately 5 years. Various entities have used the mark "Seed Prod+" in Nevada, and SSA has no exclusive rights there. As a former vice-president of Prod, Inc., William S. Johnson, is in a unique position to know this. Even if SSA's purported trademark registrations were valid, under blackletter principles of trademark law, Prod, Inc. is entitled to a geographic scope of use equal to the broadest scope of use prior to the effective date of SSA's registrations, based on Prod, Inc.'s common law use of the mark. So, even if SSA's registrations were valid, Soil Spray would have no basis for claiming the exclusive right to use the mark.

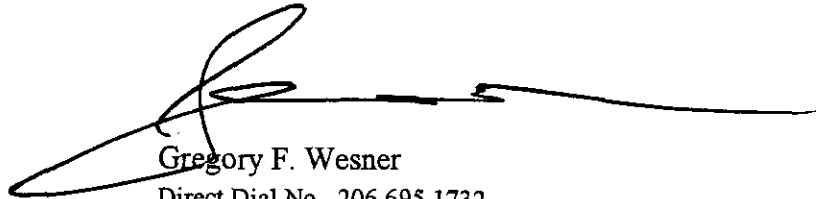
According to the Thompson & Thompson search we conducted, a copy of which is attached, there is no registration for "Seed Prod+" in Washington State. If there is indeed no Washington registration, your allegation regarding trademark in Washington would be *per se* false and misleading, and to the extent it has been published to third parties, defamatory as well. If a Washington registration does exist, I can only assume it is as flawed as the Idaho and Nevada registrations. And, because Prod, Inc., has continually used the mark "Seed Prod+" in Washington since at least 1997, Prod, Inc. is fully entitled to use "Seed Prod+" in Washington.

Brian J. Dano, Esq.
December 17, 2002
Page 3

In conclusion, SSA has no legal basis for asserting the exclusive right to use the "Seed Prod+" mark in Washington, Idaho, or Nevada. As I mentioned above, you have five days to respond. Please include our above-referenced file number in all correspondence regarding this matter.

Very truly yours,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

A handwritten signature in black ink, appearing to read 'Gregory F. Wesner', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

Gregory F. Wesner
Direct Dial No. 206.695.1732
E-Mail Address: wesnerg@cojk.com

GFW:SLJ

Enclosures:

Retraction letter
Thompson & Thompson search report

cc: Prod., Inc.
Faye L. Tomlinson

Brian J. Dano, Esq.
December 17, 2002
Page 4

VIA FACSIMILE – ORIGINAL MAILED

Fax No.

[ADDRESS BLOCK]

Re: Retraction of exclusive claim to use "Seed Prod+" trademark

Dear _____:

Recently, this firm sent to you correspondence indicating that Soil Spray Aid, Inc. ("SSA"), of Moses Lake, Washington, possesses the sole right to use the trademark "Seed Prod+" for seed treatments. On further investigation, I have determined this to be incorrect.

In fact, SSA does *not* own the exclusive right to use the trademark "Seed Prod+." Other authorized users of the trademark include Prod, Inc., ASLM, and R&A Plant Soil, Inc. You should feel free to continue to purchase and use products from these suppliers bearing the "Seed Prod+" trademark.

I apologize for any inconvenience that my earlier communication may have caused. If you have any questions, please feel free to contact me.

Very truly yours,

Brian J. Dano, Esq.
Attorney for Soil Spray Aid, Inc.

***U.S. State Trademark Applications/Registrations
Company: Soil Spray Aid, Inc.
December 11, 2002 (GCA)***

File 246:TRADEMARKSCAN(R)-U.S. State 2002/Dec 09
(c) 2002 Thomson & Thomson

? S CO=SOIL SPRAY
S1 0 CO=SOIL SPRAY
? S OW=SOIL SPRAY
S2 0 OW=SOIL SPRAY
? E CO=SOIL SPRAY

Ref	Items	Index-term
E1	2	CO=SOIL SEAL CORPORATION
E2	1	CO=SOIL SOLUTIONS
E3	0	*CO=SOIL SPRAY
E4	13	CO=SOIL SPRAY AID INC.
E5	5	CO=SOIL SPRAY AID, INC.
E6	1	CO=SOIL TESTING ENGINEERS, INC.
E7	1	CO=SOIL TESTING ENGINEERS, INC.
E8	1	CO=SOIL-OFF MANUFACTURING CO.
E9	7	CO=SOILEAU
E10	1	CO=SOILEAU INDUSTRIES, ICN.
E11	1	CO=SOILEAU INDUSTRIES, INC.
E12	1	CO=SOILES

Enter P or PAGE for more

? S E4:E5
S3 18 CO='SOIL SPRAY AID INC.':CO='SOIL SPRAY AID, INC.'
? SORT S3/ALL/TX,A
S4 18 Sort S3/ALL/TX,A
? T S4/9/ALL

18 Records containing the company name Soil Spray Aid, Inc.:

4/9/1

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
(c) 2002 Thomson & Thomson. All rts: reserv.

01428740

CROP PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 30,685

REGISTERED: June 14, 2002

FIRST USE IN STATE: 1982

FIRST USE ANYWHERE: 1982

REGISTRANT(S): **SOIL SPRAY AID, INC.**, (A Corporation), 2196

STONERIDGE ROAD, MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4811

MANNER OF DISPLAY: USED ON NAME OF PRODUCT FOR MARKETING, ON

CONTAINER OF BAGS, GALLONS, LABELS IN REFERENCE OF PRODUCT NAME

4/9/2

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State

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01285825

D PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,096

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1996

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),

2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF A PRODUCT FOR MARKETING

4/9/3

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State

(c) 2002 Thomson & Thomson. All rts. reserv.

01285830

GARDEN PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,101

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1998

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),

2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/4

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
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01434611

GERM-N-8

T&T INTL CLASS: 1 (Chemicals)
5 (Pharmaceuticals)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
5 (Adhesives)
6 (Chemicals & Chemical Compositions)
10 (Fertilizers)
18 (Medicines & Pharmaceutical Preparations)

STATE: Nevada

STATUS: Registered

GOODS/SERVICES: SEED TREATMENT PRODUCT

REGISTERED: August 6, 2002

FIRST USE IN STATE: January 5, 2000

FIRST USE ANYWHERE: December 1999

FILING BOOK: 34 page 930

REGISTRANT(S): SOIL SPRAY AID, INC., (A Washington Corporation)
, 2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

MANNER OF DISPLAY: TO TAGS OR LABELS AFFIXED TO THE GOODS TO TAGS
OR LABELS AFFIXED TO THE CONTAINERS FOR THE GOODS

4/9/5

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
(c) 2002 Thomson & Thomson. All rts. reserv.

01343000

GERM-N-8

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: SEED TREATMENT

REG. NO.: 28,554

REGISTERED: February 25, 2000

FIRST USE IN STATE: 1996

FIRST USE ANYWHERE: 1996

REGISTRANT(S): SOIL SPRAY AID INC., (A Washington Corporation),
2196 STONERIDGE, MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4811

MANNER OF DISPLAY: ON CONTAINER OF SEED TREATMENT (BAGS, GALLONS,
LABELS) IN REFERENCE OF PRODUCT NAME

4/9/6

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01428738

GO PLAY OUTSIDE and Design

T&T INTL CLASS: 35 (Advertising & Business Services)
41 (Education & Entertainment Services)

T&T U.S. CLASS: 101 (Advertising & Business Services)
107 (Education & Entertainment Services)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: SALE OF VARIOUS GOODS TO PROMOTE OUTDOOR
RECREATION AND ETHICAL USE OF THE OUTDOORS IN WASHINGTON, AND
TO PROMOTE OUTDOOR RECREATION, CLINICS, WORKSHOPS, EXPOSTIONS,
EVENTS AND PARTNERSHIPS

REG. NO.: 30,682

REGISTERED: June 14, 2002

FIRST USE IN STATE: April 2001

REGISTRANT(S): **SOIL SPRAY AID, INC.**, (A Washington Corporation)
, 2196 STONERIDGE ROAD, MOSES LAKE, WA (Washington), 98837
Telephone: 509-465-4611

MANNER OF DISPLAY: USED ON OUTDOOR CLOTHING AND WEARING APPAREL,
PRINTED AND WEB BASED REPORTS, REFERENCE GUIDES, BROCHURES AND
SUMMARIES, PROMOTIONAL LOGO GOODS SUCH AS LANYARDS, LICENSE
HOLDERS, REARVIEW MIRROR HANGERS, MUGS, CUPS, KEY CHAINS,
OUTDOOR SURVEY

4/9/7

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
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01285829

HYDRO PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,100

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1996

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),
2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837
Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/8

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01285826

LAWN PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,097

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1998

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),
2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/9

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01285827

PROD HP

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,098

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1998

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),
2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/10

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01285831

SEA PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered
GOODS/SERVICES: Not Available
REG. NO.: 27,102
REGISTERED: May 26, 1998
FIRST USE IN STATE: 1996
FIRST USE ANYWHERE: 1996
REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),
2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837
Telephone: 509-765-4611
MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/11

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01431741

SEED PROD+ and Design
T&T INTL CLASS: 1 (Chemicals)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
5 (Adhesives)
6 (Chemicals & Chemical Compositions)
10 (Fertilizers)
STATE: Nevada
STATUS: Registered
GOODS/SERVICES: SEED TREATMENT PRODUCTS
REGISTERED: July 2, 2002
FIRST USE IN STATE: 1992
FIRST USE ANYWHERE: 1992
FILING BOOK: 34 page 843
REGISTRANT(S): **SOIL SPRAY AID, INC.**, (A Corporation), 2196
STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

4/9/12

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01428121

SEED PROD+
T&T INTL CLASS: 1 (Chemicals)
31 (Natural Agricultural Products)
T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
5 (Adhesives)
6 (Chemicals & Chemical Compositions)
10 (Fertilizers)
46 (Foods & Ingredients of Foods)
STATE: Idaho
STATUS: Registered
GOODS/SERVICES: SEED TREATMENT PRODUCT
REG. NO.: 17,271
REGISTERED: July 8, 2002

FIRST USE IN STATE: 1992

REGISTRANT(S): **SOIL SPRAY AID, INC.**, 2196 STONERIDGE RD, MOSES LAKE, WA (Washington), 98837

4/9/13

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01285832

SOIL PROD

T&T INTL CLASS: 31 (Natural Agricultural Products)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,103

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1998

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),
2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

4/9/14

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01019516

SOIL SPRAY AID INC. and Design

T&T INTL CLASS: 1 (Chemicals)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)
5 (Adhesives)
6 (Chemicals & Chemical Compositions)
10 (Fertilizers)

STATE: Washington

STATUS: Expired

GOODS/SERVICES: FERTILIZERS

REG. NO.: 15,036

REGISTERED: May 23, 1984

FIRST USE IN STATE: January 5, 1984

FIRST USE ANYWHERE: January 5, 1984

EXPIRED: May 23, 1994

REGISTRANT(S): **SOIL SPRAY AID INC.**, 520 RD. 2 N.E. STAR RT.,
MOSES LAKE, WA (Washington), 98837

MANNER OF DISPLAY: APPLIED DIRECTLY TO THE GOODS, TO TAGS OR
LABELS ACCOMPANYING THE GOODS, TO THE CONTAINERS FOR THE GOODS,
SHOWN ON DISPLAYS ASSOCIATED WITH THE GOODS, FERTILIZER AND
FERTILIZERS.

DESIGN PHRASE: THE WORD SOIL SPRAY AID WITH THE FLASH AND TWO

TEST TUBES. ON THE TEST TUBES ARE A DRAWING OF THE CULTURES, ONE IS OVAL SHAPED WITH A DARK SPOT IN IT, THE OTHER HAS A CHAIN LOOK WITH A CIRCLE IN THE MIDDLE. THE FLASK IS SHADED AT THE BOTTOM AND HAS TWO TUBES COMING OUT OF IT.

4/9/15

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01020130

SOIL SPRAY AID INC. SUPER COVER CROP

T&T INTL CLASS: 1 (Chemicals)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

5 (Adhesives)

6 (Chemicals & Chemical Compositions)

10 (Fertilizers)

STATE: Washington

STATUS: Expired

GOODS/SERVICES: FERTILIZER

REG. NO.: 15,651

REGISTERED: March 18, 1985

FIRST USE IN STATE: February 1980

FIRST USE ANYWHERE: February 1980

EXPIRED: March 18, 1995

REGISTRANT(S): **SOIL SPRAY AID INC.**, 520 RD. 2 N.E. STAR RT.,
MOSES LAKE, WA (Washington), 98837

MANNER OF DISPLAY: APPLIED DIRECTLY TO THE GOODS, TO TAGS OR
LABELS ACCOMPANYING THE GOODS, TO THE CONTAINERS FOR THE GOODS,
SHOWN ON DISPLAYS ASSOCIATED WITH THE GOODS, LITERATURE,
FERTILIZER AND ADVERTIZEMENT, LITERATURE, FERTILIZERS, AND
ADVERTIZEMENTS

4/9/16

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01019773

SOIL SPRAY AID INC. SUPER CROP FEED Stylized Letters

T&T INTL CLASS: 1 (Chemicals)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

5 (Adhesives)

6 (Chemicals & Chemical Compositions)

10 (Fertilizers)

STATE: Washington

STATUS: Expired

GOODS/SERVICES: FERTILIZER

REG. NO.: 15,293

REGISTERED: September 7, 1984

FIRST USE IN STATE: March 1980

FIRST USE ANYWHERE: March 1980

EXPIRED: September 7, 1994

REGISTRANT(S): **SOIL SPRAY AID INC.**, 520 RD. 2 N.E. STAR RT.,
MOSES LAKE, WA (Washington), 98337

MANNER OF DISPLAY: APPLIED DIRECTLY TO THE GOODS, TO TAGS OR
LABELS ACCOMPANYING THE GOODS, TO THE CONTAINERS FOR THE GOODS,
SHOWN ON DISPLAYS ASSOCIATED WITH THE GOODS, LITERATURE,
FERTILIZER AND ADVERTISEMENT.

4/9/17

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
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01019403

SOIL SPRAY AID INC. SUPER SEED FEED Stylized Letters

T&T INTL CLASS: 1 (Chemicals)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

5 (Adhesives)

6 (Chemicals & Chemical Compositions)

10 (Fertilizers)

STATE: Washington

STATUS: Expired

GOODS/SERVICES: FERTILIZER

REG. NO.: 14,922

REGISTERED: March 21, 1984

FIRST USE IN STATE: 1980

FIRST USE ANYWHERE: 1980

EXPIRED: March 21, 1994

REGISTRANT(S): **SOIL SPRAY AID INC.**, 520 RD. 2 N.E. STAR RT.,
MOSES LAKE, WA (Washington), 98837

MANNER OF DISPLAY: APPLIED DIRECTLY TO THE GOODS, TO TAGS OR
LABELS ACCOMPANYING THE GOODS, TO THE CONTAINERS FOR THE GOODS,
SHOWN ON DISPLAYS ASSOCIATED WITH THE GOODS, ON LITERATURE,
FERTILIZER, ADVERTISEMENTS

4/9/18

DIALOG(R)File 246:TRADEMARKSCAN(R)-U.S. State
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01285828

UN-BUG

T&T INTL CLASS: 31 (Natural Agricultural Products)

T&T U.S. CLASS: 1 (Raw Or Partly Prepared Materials)

46 (Foods & Ingredients of Foods)

STATE: Washington

STATUS: Registered

GOODS/SERVICES: Not Available

REG. NO.: 27,099

REGISTERED: May 26, 1998

FIRST USE IN STATE: 1997

REGISTRANT(S): **SOIL SPRAY AID INC.**, (A Washington Corporation),

2196 STONERIDGE RD., MOSES LAKE, WA (Washington), 98837

Telephone: 509-765-4611

MANNER OF DISPLAY: USED AS NAME OF PRODUCT FOR MARKETING

? SAVE TEMP

Temp SearchSave "TD195" stored

***U.S. Federal Trademark Applications/Registrations
Company: Soil Spray Aid, Inc.
December 11, 2002 (GCA)***

File 226:TRADEMARKSCAN(R)-US FED OG=021210/AP=021122

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? S CO=SOIL SPRAY AID, INC.

S1 0 CO=SOIL SPRAY AID, INC.

? E CO=SOIL SPRAY

0 Records containing the company Soil Spray Aid, Inc.:

Ref Items Index-term

E1 2 CO=SOIL SHIELD INTERNATIONAL, INC.

E2 4 CO=SOIL SOLUTIONS CORPORATION

E3 0 *CO=SOIL SPRAY

E4 4 CO=SOIL STABILIZATION PRODUCTS CO., INC.

E5 2 CO=SOIL STABILIZATION PRODUCTS COMPANY, INC

E6 9 CO=SOIL STABILIZATION PRODUCTS COMPANY, INC.

E7 2 CO=SOIL STEWARD, INCORPORATED

E8 1 CO=SOIL SYSTEMS TECHNOLOGY CORP.

E9 1 CO=SOIL SYSTEMS, INC.

E10 1 CO=SOIL SYSTEMS, INC., CINCINNATI, OHIO

E11 2 CO=SOIL SYSTEMS, INC., D.B.A. SSL, MARIETTA, GA.

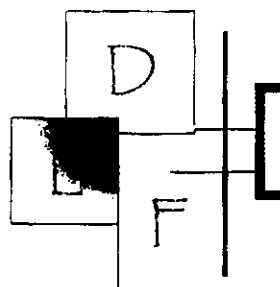
E12 1 CO=SOIL SYSTEMS, INC., MARIETTA, GA.

Enter P or PAGE for more

? SAVE TEMP

Temp SearchSave "TD196" stored

EXHIBIT B



DANO LAW FIRM, P.S.

December 9, 2002

Prod, Inc.
P.O. Box 9272
Moscow, ID 83843

Re: Soil Spray Aid, Inc. - Seed Prod+

To Whom It May Concern:

We are the attorneys for Soil Spray Aid, Inc. ("Soil Spray"), whose principal offices are located in Moses Lake, Washington.

Soil Spray is the manufacturer of Seed Prod+, a specialized seed treatment product, and are the owners of the trademark "Seed Prod+", which is trademarked in the States of Washington, Idaho, and Nevada.

It is unlawful, without the consent of Soil Spray, for any person or entity to manufacture, use, display, or sell any seed treatment product either advertised as Seed Prod+ or bearing that name on its container or packaging or a colorable imitation thereof.

If you are engaged in any such practices, demand is hereby made upon you to cease doing so immediately.

Very truly yours,

DANO LAW FIRM, P.S.

Brian J. Dano

BJD:cm

cc: Soil Spray Aid, Inc.

P.O. Box 1159 / 100 E. Broadway
Moses Lake, Washington 9
Phone 509.765.9285 / Fax 766.
E-mail: info@danolawfirm
www.danolawfirm